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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

FLIR SYSTEMS, INC., an Oregon
corporation,

Plaintiff,

vs.

THOMAS L. GAMBARO, an individual
d/b/a **PATENT ENFORCEMENT
COMPANY; MOTIONLESS
KEYBOARD COMPANY**, an Oregon
corporation.

Defendants.

Civil No.: 3:10-cv-00231-BR

**DECLARATION OF SUSAN
MARMADUKE IN SUPPORT OF
PLAINTIFF'S CONCISE
STATEMENT OF MATERIAL
FACTS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

I, SUSAN MARMDUKE, hereby declare as follows:

1. I am an attorney at Harrang Long Gary Rudnick, P.C., which is counsel for Plaintiff FLIR Systems, Inc. (“FLIR”) in the above-captioned action. I am one of the attorneys primarily responsible for the representation of FLIR in this action. All statements in this declaration are within my personal knowledge and I make this declaration in support of FLIR’s Concise Statement of Material Facts in Support of Plaintiff’s Motion for Partial Summary Judgment.

2. As one of the attorneys primarily responsible for representing FLIR in this action, I am familiar with the pleadings, correspondence, deposition transcripts and exhibits, discovery, and all other documents in the above-captioned action.

3. I have also received, and reviewed, copies of documents and pleadings from *Motionless Keyboard Co. v. Microsoft Corp.*, No. Civ. 04-180-AA formerly pending in the United States District Court, District of Oregon, Eugene Division, before the Honorable Ann L. Aiken (the “Prior Action”) from various sources including PACER, the archives for the United States District Court, District of Oregon, Eugene Division, and Devon Newman of Schwabe, Williamson & Wyatt, formerly local counsel for FLIR in the above-captioned action.

4. True and correct excerpts of the Transcript of Proceedings held before this court on June 23, 2010 in the above-captioned action, are attached hereto as Exhibit 1 (“Hearing Tr.”).

5. A true and correct copy of United States Patent No. 5,332,322 is attached hereto as Exhibit 2 (“322 Patent Documents”).

6. A true and correct copy of the Patent Assignment Abstract of Title record related to United States Patent No. 5,332,322, downloaded from the Patent Application Information Retrieval (PAIR) section of the United States Patent & Trademark Office Website on September 16, 2010, is attached hereto as Exhibit 3 (“Patent Assignment Abstract”).

7. A true and correct copy of the letter from Thomas L. Gambaro to William Brewer III, dated February 14, 2010, is attached hereto as Exhibit 4 (“Feb. 14, 2010 Gambaro Letter to Brewer”). This letter was attached as Ex. J to Plaintiff’s Complaint (Dkt. No. 1). Compl. ¶ 20 & n.10 and Ex. J. Gambaro does not deny the authenticity of the letter in his Answer ¶ 20 (Dkt. No. 11).

8. True and correct excerpts of the docket sheet for the Prior Action are attached hereto as Exhibit 5 (“Prior Action Docket”).

9. True and correct copies of excerpts of the Deposition of Thomas L. Gambaro, dated October 7, 2004, in the Prior Action, are attached hereto as Exhibit 6 (“PA Depo.”).

10. A true and correct copy of the Memorandum in Support of Motion for Reconsideration for Motionless Keyboard Company Inventor U.S. Patent No. 5,178,477 and U.S. Patent No. 5,332,322, filed June 2, 2005, in the Prior Action, is attached hereto as Exhibit 7 (“Prior Action Memo. in Supp. Recons. Motion”).

11. True and correct copies of excerpts of the Transcript of Hearing dated February 18, 2005 in the Prior Action, are attached hereto as Exhibit 8 (“PA Hearing Tr.”).

12. A true and correct copy of the Supplemental Declaration of Thom Gambaro, dated February 18, 2005, filed in the Prior Action is attached hereto as Exhibit 9 (“Suppl. PA Decl. of Gambaro”).

13. A true and correct copy of Gambaro’s “Entry of Appearance” and the appellate docket in the Prior Action are attached hereto as Exhibit 10 (“Entry of Appearance; PA Appellate Docket”).

14. A true and correct copy of a letter from Thom Gambaro to William E. Powell III and FLIR Systems, Inc., dated November 20, 2009, is attached hereto as Exhibit 11 (“Nov. 20, 2009 Gambaro Letter to Powell and FLIR”). This letter was attached as Exhibit E to Plaintiff’s Complaint. Compl. ¶ 15 & n.5 and Ex. E. Gambaro does not deny the authenticity of the letter in his Answer ¶ 15.

15. I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 17th day of September, 2010 in Portland, Oregon.

By: /s/ Susan D. Marmaduke
SUSAN MARMDUKE

CERTIFICATE OF SERVICE

I certify that on September 17, 2010, I served or caused to be served a true and complete copy of the foregoing **DECLARATION OF SUSAN MARMADUKE IN SUPPORT OF PLAINTIFF'S CONCISE STATEMENT OF MATERIAL FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** on the party or parties listed below as follows:

_____ Via CM / ECF Filing
_____ Via First Class Mail, Postage Prepaid
_____ Via Email
_____ Via Personal Delivery

Thomas L. Gambaro
individually and dba
Patent Enforcement Company
and Motionless Keyboard Company
P.O. Box 14741
Portland, OR 97293

Defendants *Pro Se*

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Counsel for Defendant Motionless
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Of Attorneys for Plaintiff FLIR Systems,
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